

ORDINANCE NO. 05 154

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM MULTIPLE FAMILY RESIDENTIAL (RM-1) TO MULTIPLE FAMILY RESIDENTIAL (RM-10) AT KALALAU, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-6-8:PORTION OF 22.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-33, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kalalau, South Hilo, Hawai'i, shall be Multiple Family Residential (RM-10):

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAP", being 5,643.93 feet North and 1,016.71 feet East thence running by azimuth measured clockwise from true South:

- 1. 265° 00' 46.89 feet along the remainder of Lot B;
- 2. 355° 00' 30" 33.16 feet along Wainaku Street;
- 3. Thence along same on a curve to the left with a radius of 134.02 feet, the chord azimuth and distance being: 318° 35' 15" 159.14 feet;
- 4. 282° 10' 41.00 feet along Wainaku Street;

Thence along the middle of Pukihae Stream for the next two (2) courses, the direct azimuths and distances being:

- | | | | |
|----|--------------|--------|--|
| 5. | 88° 53' | 231.77 | feet; |
| 6. | 107° 44' 30" | 40.57 | feet; |
| 7. | 206° 50' | 167.09 | feet along Lot 22, Kalalau Farm Lot Subdivision to the point of beginning and containing an area of 0.55 Acre, More or Less. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
 - (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.
- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety (90) days from the effective date of this ordinance.

- C. Construction of the proposed development shall be completed within five (5) years from the effective date this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- D. All driveway connections to Wainaku Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.

- E. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. The recommended drainage improvements shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.

- F. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.

- G. The applicant shall install a backflow preventer by a licensed contractor on the applicant's private property just after the meter, meeting with the approval of the Department of Water Supply.

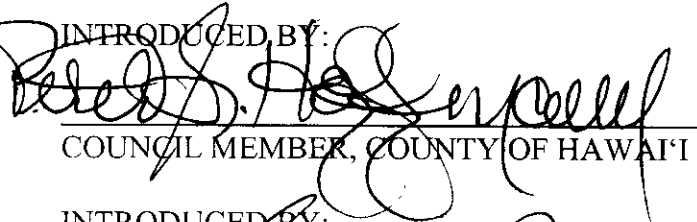
- H. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- I. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resource – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- J. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- K. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- L. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to final plan approval.
- M. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
 4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
 5. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.
- N. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.

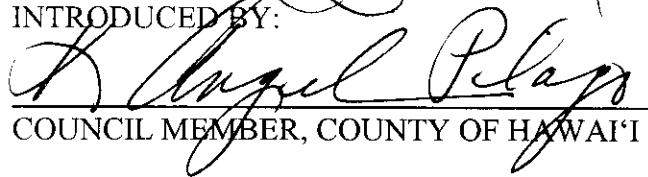
SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

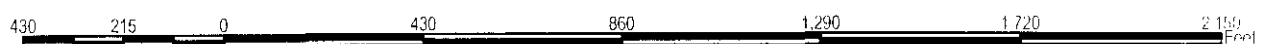
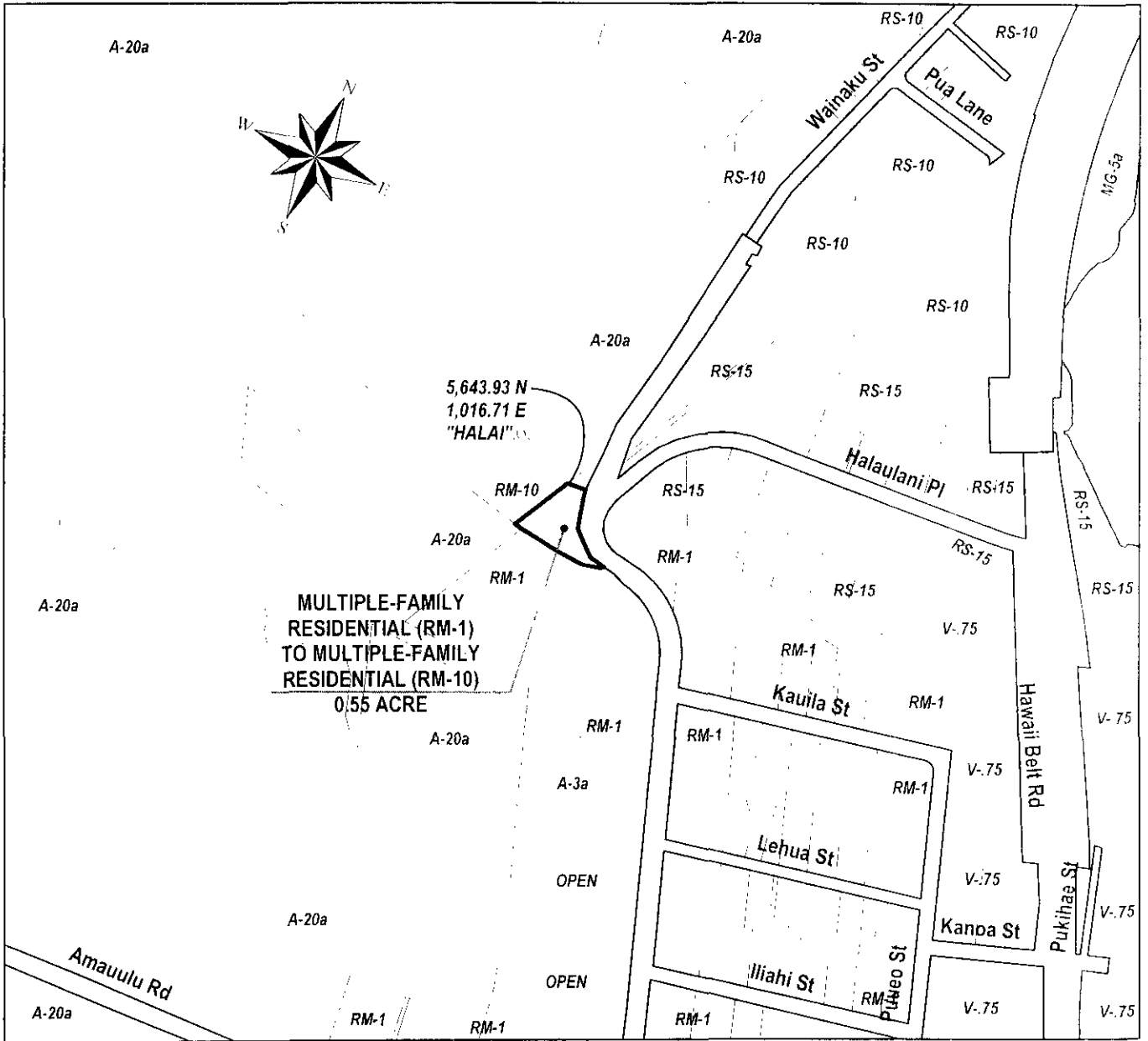
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i

Date of Introduction: November 9, 2005
Date of 1st Reading: November 9, 2005
Date of 2nd Reading: November 22, 2005
Effective Date: December 2, 2005

REFERENCE: Comp. 465



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM MULTIPLE-FAMILY RESIDENTIAL (RM-1)
 TO MULTIPLE-FAMILY RESIDENTIAL (RM-10)
 AT KALALAU, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

Introduced By: Pete Hoffmann/K. Angel Pilago
Date Introduced: November 9, 2005
First Reading: November 9, 2005
Published: N/A

REMARKS: _____

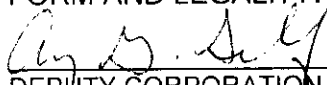
Second Reading: November 22, 2005
To Mayor: November 23, 2005
Returned: December 2, 2005
Effective: December 2, 2005
Published: December 9, 2005


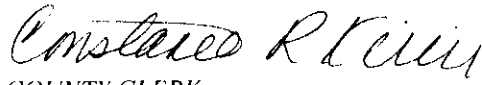
REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
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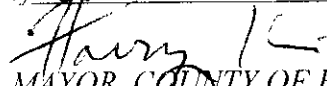
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Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date NOV 30 2005


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 158
Reference: C-465/PC-38
Ord No.: 05 154

Approved/Disapproved this 2nd day
of December, 2005

MAYOR, COUNTY OF HAWAII